

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of)	
)	WC Docket No. 02-60
Rural Health Care Support Mechanism)	

COMMENTS OF NATIONAL LAMBDA RAIL, INC.

National LambdaRail, Inc. (“NLR”), by its attorneys, and pursuant to the Commission’s Notice of Proposed Rulemaking in the above-captioned docket (“NPRM”),¹ hereby submits its comments on the proposals set forth in the NPRM to allow participants to receive up to 85 percent of the cost to access NLR and to pre-select connections to NLR.

I. INTRODUCTION

NLR is a non-profit organization that was incorporated to advance and serve the research, clinical and educational goals of its members and other institutions through its dedicated, nationwide, advanced network infrastructure that is connected to regional, broadband, optical networks (“RONs”).² The Commission is familiar with NLR.

In the National Broadband Plan, the Commission recognized NLR as a “very-high-speed optical wavelength network.”³ NLR was also one of two national backbones chosen by the Commission for pre-selection under the Rural Healthcare Pilot Program (“Pilot Program”).⁴ As stated by the Commission in that proceeding, NLR is a “non-profit entity that already links a number of institutions, such as government research institutions and academic, public and private

¹ *In re Rural Health Care Support Mechanism*, Notice of Proposed Rulemaking, 25 FCC Rcd 9371 (2010).

² For a more complete description of NLR, see <http://www.nlr.net/>

³ *Connecting America: The National Broadband Plan*, p. 124 (“NBP”).

⁴ See e.g., *In re Rural Health Care Support Mechanism*, Order on Reconsideration, 22 FCC Rcd 2555, 2558 ¶ 8 (2007) (“*Pilot Program Recon Order*”).

health care providers that house significant medical expertise.”⁵ In the instant proceeding, the Commission characterizes NLR as a non-profit backbone provider that links “a number of institutions such as government research institutions and academic, public and private health care providers that house significant medical expertise.”⁶ As a result, the Commission has found that “supporting connections to NLR would expand health care providers’ ability to access institutions that may be currently connected to only one backbone or to otherwise address network or clinical needs unique to an applicant.”⁷ Similarly, the Commission stated in the National Broadband Plan that “expanding the R&E network model [of NLR] to other anchor institutions would offer tremendous benefits.”⁸

In these Comments, NLR focuses on the Commission’s proposal to allow participants under the proposed Health Infrastructure Program (“HIP”) to receive, as an eligible expense, up to “85 percent of the membership fees for connecting their networks to the dedicated nationwide backbones,” such as NLR.⁹ NLR also comments on the ability of participants to pre-select NLR and, in the process, avoid the competitive bidding requirement for access to NLR’s network.

II. NLR CAN PLAY A LEADING ROLE IN EXTENDING ADVANCED BROADBAND INFRASTRUCTURE TO RURAL HEALTH CARE PROVIDERS

As a fully operational, non-profit, wholly-owned and wholly open high-speed national fiber broadband network that is already dedicated to public purposes, NLR stands ready and

⁵ *Pilot Program Recon Order*, 22 FCC Rcd at 2556 ¶ 5.

⁶ *NPRM*, 25 FCC Rcd at 9388 ¶ 40.

⁷ *Pilot Program Recon Order*, 22 FCC Rcd at 2556 ¶ 5.

⁸ *NBP* at 154. Access to NLR’s network can occur in one of two ways. Either a user becomes a member of NLR by paying a membership fee or it connects with NLR as a non-member. Whether a member pays for access and, if so, how much, depends on the membership category of the member. Non-members pay a negotiated fee. In either event, access to NLR’s network by members and non-members alike is, for the most part, via the RONS. In other words, if a member or non-member that is not a RON wishes to access NLR’s network, it typically does so by interconnecting with a RON.

⁹ *NPRM*, 25 FCC Rcd at 9388 ¶ 40. These comments assume that two types of costs are eligible under the Commission’s proposal, *i.e.*, the costs to join NLR and thereby receive access to NLR’s network as a member and the costs to access NLR’s network as a non-member.

willing to play a key role in extending and maintaining advanced broadband connectivity to rural health care providers throughout the nation. Currently, over thirty state and multi-state RONS are interconnected with NLR, forming a truly nationwide broadband backbone. Together, NLR and its member RONS comprise a uniquely robust, cohesive, secure and comprehensive broadband infrastructure that already serves health care providers nationwide¹⁰ as well as the nation's research and education community by providing a test bed for advanced research at over 280 universities, private and U.S. government laboratories and advanced programs across the country.

NLR concurs that "[i]t is reasonable to allow, as an eligible expense, membership fees to connect to NLR"¹¹ The Commission has already authorized Pilot Program participants to interconnect with NLR, expressly finding that "it will service the public interest to all [Pilot Program] applicants to request funding to support the costs of connecting state and regional broadband networks to NLR"¹² NLR, therefore, can fill a critical gap, linking rural health care providers with the significant medical expertise that exists in larger institutions to ensure that life-changing applications, such as telehealth and telemedicine, transmission of electronic health records, video consultations, remote patient monitoring, 3-D imaging, and myriad other advanced uses needed by health care systems are available in rural and remote areas. Furthermore, supporting NLR's membership fees can result in lower access and usage fees for HIP participants.

¹⁰ See Attachment B to the NLR Petition for Reconsideration, WC Docket No. 02-60 dated October 30, 2006, for a sampling of the many health care providers connected to the NLR network.

¹¹ *NPRM*, 25 FCC Rcd at 9388 40.

¹² *Pilot Program Recon Order*, 22 FCC Rcd at 2556 ¶ 5.

III. NLR'S NETWORK IS UNIQUELY AVAILABLE TO MEET THE NEEDS OF RURAL HEALTH CARE PROVIDERS

While commercial backbones are sufficient for certain Internet uses, there has been a market failure when it comes to advanced broadband applications for medical applications. Commercial networks are not optimized to support advanced broadband applications used by health care systems. Moreover, commercial networks do not offer next-generation Internet technologies like IPv6 and IP multicast, which are critical to telepresence and telemedicine. Funding NLR membership fees and the connections to the NLR network will allow rural health care providers to utilize a truly advanced broadband infrastructure to deliver cutting edge health care that will transform rural health delivery.

Unlike a network of leased, finished and managed capacity provided by an underlying carrier, NLR's network is owned, managed and controlled by its members who are members of the research and education community. NLR is therefore not constrained by third-party rules. Instead, NLR's deployed and fully operational network can be made available to eligible health care providers now on a non-discriminatory, neutral basis without any acceptable use policy. NLR would work closely with other national networks, as well as existing and future RONS, to provide not only the network infrastructure but also the policy and technical coordination necessary to implement high end-to-end service quality and security needed for health care applications.

IV. PRE-SELECTION OF NLR AVOIDS THE BURDEN AND UNCERTAINTY OF COMPETITIVE BIDDING FOR A KNOWN AND ACCEPTED NETWORK COMPONENT

The purpose of competitive bidding is to ferret out the best solution to the need at hand. Factored into that determination are a number of metrics, such as price, delivery, management, experience, and financial wherewithal. Those criteria, however, work for commercial vendors

but are not necessarily appropriate for non-profits, such as NLR. Although NLR's network is a unique component of a participant's network, it is a known quantity with a mission that fits the purpose and intent of HIP; in particular:

- 1) NLR is a not-for-profit organization;
- 2) NLR is a dedicated, nationwide backbone;
- 4) NLR provides access to advanced telecommunications and information services;
- 5) NLR is more reliable and stable than the public Internet; and,
- 6) NLR links public and private health care institutions that are repositories of medical expertise and information.

Given these characteristics and their fit with HIP, it is unnecessary to require competitive bidding to access NLR's network. It is clear that the Commission has determined that connections to NLR's network to meet the backbone needs of participants are in the public interest.¹³

V. CONCLUSION

As the National Broadband Plan recognizes, and indeed urges, the ability of community anchor institutions, such as health care entities, to utilize the services provided by NLR and other non-profit R&E networks would yield "tremendous benefits," including higher speeds, lower prices, greater redundancy, and more efficient and effective utilization of broadband by these institutions.¹⁴ Yet it will be impossible for HIP participants to take advantage of NLR's network if membership fees and connection to NLR's network are not funded. Accordingly, NLR urges the adoption of the Commission's proposal to fund membership fees to NLR's network and to permit participants to pre-select access to NLR's network to meet the backbone needs of the participants.

¹³ It can be presumed that the costs of NLR membership or connection to NLR's network are reasonable given NLR's non-profit mission.

¹⁴ NBP at p. 197 *et seq.*

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard A. Gibbs". The signature is fluid and cursive, with a horizontal line drawn underneath it.

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